

PART 280—MAGNET SCHOOLS ASSISTANCE PROGRAM

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AUTHORITY: 20 U.S.C. 7201-7213, unless otherwise noted.

Subpart A—General

§ 280.1 What is the Magnet Schools Assistance Program?

The Magnet Schools Assistance Program provides grants to eligible local educational agencies (LEAs) or consortia of LEAs for use in magnet schools that are part of an approved desegregation plan and that are designed to bring students from different social, economic, ethnic and racial backgrounds together. The purposes of the program are to support, through financial assistance to eligible LEAs or consortia of LEAs,;

(a) The elimination, reduction, or prevention of minority group isolation

in elementary and secondary schools with substantial portions of minority students;

(b) The development and implementation of magnet school projects that will assist LEAs in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State performance standards;

(c) The development and design of innovative educational methods and practices; and

(d) Courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

(Authority: 20 U.S.C. 7202)

[51 FR 20414, June 4, 1986, as amended at 60 FR 14865, Mar. 20, 1995]

§ 280.2 Who is eligible to apply for a grant?

(a) An LEA or consortia of LEAs is eligible to receive assistance under this part if the LEA or consortia of LEAs meets any of the following requirements:

(1) The LEA or consortia of LEAs is implementing a plan undertaken pursuant to a final order of a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and the order requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of that agency or those agencies.

(2) The LEA or consortia of LEAs adopted and is implementing on either a voluntary basis or as required under title VI of the Civil Rights Act of 1964—or will adopt and implement if assistance is made available under this part—a plan that has been approved by the Secretary as adequate under title VI.

(b) The Secretary approves a voluntary plan under paragraph (a)(2) of this section only if he determines that for each magnet school for which funding is sought—

(1) The magnet school will reduce, eliminate, or prevent minority group isolation within the period of the grant award, either in the magnet school or in a feeder school, as appropriate; and

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(2) The establishment of the magnet school will not result in an increase of minority enrollment, at the magnet school or at any feeder school, above the districtwide percentage of minority group students in the LEA's schools at the grade levels served by that magnet school.

(Authority: 20 U.S.C 7205)

[50 FR 21191, May 22, 1985, as amended at 54 FR 19508, May 5, 1989; 57 FR 61508, Dec. 24, 1992; 60 FR 14865, Mar. 20, 1995]

§ 280.3 What regulations apply to this program?

The following regulations apply to the Magnet Schools Assistance Program:

(a) The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 75 (Direct grant programs), except that § 75.253(c) (relating to reducing a subsequent year's award by the amount remaining available from the grantee's current award) does not apply to this program, 77 (Definitions apply to Department regulations), 79 (Intergovernmental Review of Department of Education programs and activities), 80 (Uniform Administrative Requirements for State and Local Governments), and 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(b) The regulations in this part.

(Authority: 20 U.S.C. 7201-7213)

[50 FR 21191, May 22, 1985, as amended at 54 FR 19508, May 5, 1989]

§ 280.4 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR part 77:

Applicant
Application
Award
Budget
EDGAR
Elementary school
Equipment
Facilities
Fiscal year
Grant
Local educational agency
Project

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Secondary school

Secretary

State

Supplies

(b) *Definitions that apply to this program.* The following definitions also apply to this part:

Act means title VII of the Education for Economic Security Act, Pub. L. 98-377.

Desegregation, in reference to a plan, means a plan for the reassignment of children or faculty to remedy the illegal separation of minority group children or faculty in the schools of an LEA or a plan for the reduction, elimination, or prevention of minority group isolation in one or more of the schools of an LEA.

Feeder school means a school from which students are drawn to attend a magnet school.

Magnet school means a public elementary or secondary school or public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

Minority group means the following:

(1) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(2) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

(3) *Black (Not of Hispanic Origin).* A person having origins in any of the black racial groups of Africa.

(4) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Minority group isolation, in reference to a school, means a condition in which minority group children constitute more than 50 percent of the enrollment of the school.

Special curriculum means a course of study embracing subject matter or a teaching methodology that is not generally offered to students of the same

age or grade level in the same LEA or consortium of LEAs, as the students to whom the special curriculum is offered in the magnet schools. This term does not include:

(1) A course of study or a part of a course of study designed solely to provide basic educational services to handicapped students or to students of limited English-speaking ability;

(2) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited English-speaking ability;

(3) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited financial resources; or

(4) A course of study or a part of a course of study that fails to provide for a participating student's meeting the requirements for completion of elementary or secondary education in the same period as other students enrolled in the applicant's schools.

(Authority: 20 U.S.C. 7201-7213)

[50 FR 21191, May 22, 1985, as amended at 51 FR 20414, June 4, 1986; 54 FR 19508 and 19509, May 5, 1989; 57 FR 61509, Dec. 24, 1992; 60 FR 14865, Mar. 20, 1995]

Subpart B—What Types of Projects Does the Secretary Assist Under This Program?

§ 280.10 What types of projects does the Secretary assist?

(a) The Secretary funds applications proposing projects in magnet schools that are part of an approved desegregation plan and that are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(b) For the purposes of this part, an approved desegregation plan is a desegregation plan described in § 280.2 (a) or (b).

(c) In the case of a desegregation plan described in § 280.2(a)(1), any modification to that plan must be approved by the court, agency, or official that approved the plan.

(Authority: 20 U.S.C. 7203)

[50 FR 21191, May 22, 1985, as amended at 51 FR 20414, June 4, 1986; 54 FR 19508 and 19509, May 5, 1989]

Subpart C—How Does One Apply for a Grant?

§ 280.20 How does one apply for a grant?

(a) Each eligible LEA or consortium of LEAs that desires to receive assistance under this part shall submit an annual application to the Secretary.

(b) In its application, the LEA or consortium of LEAs shall provide assurances that it—

(1) Will use funds made available under this part for the purposes specified in section 5102 of the Act;

(2) Will employ teachers in the courses of instruction assisted under this part who are certified or licensed by the State to teach, or supervise others who are teaching, the subject matter of the courses of instruction;

(3) Will not engage in discrimination based upon race, religion, color, national origin, sex, or disability in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(4) Will not engage in discrimination based upon race, religion, color, national origin, sex, or disability in the assignment of students to schools or to courses of instruction within schools of the agency, except to carry out the approved desegregation plan;

(5) Will not engage in discrimination based upon race, religion, color, national origin, sex, or disability in designing or operating extracurricular activities for students;

(6) Will carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

(7) Will give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

(c) In addition to the assurances listed in paragraph (b) of this section, the LEA or consortium of LEAs shall provide such other assurances as the Secretary determines necessary to carry out the provisions of this part.

(d) Upon request, the LEA or consortium of LEAs shall submit any information that is necessary for the Assistant Secretary for Civil Rights to determine whether the assurances required in paragraphs (b) (3), (4), and (5) of this section will be met.

(e) An LEA or consortium of LEAs that has an approved desegregation plan shall submit each of the following with its application:

(1) A copy of the plan.

(2) An assurance that the plan is being implemented as approved.

(f) An LEA or consortium of LEAs that does not have an approved desegregation plan shall submit each of the following with its application:

(1) A copy of the plan the LEA or consortium of LEAs is submitting for approval.

(2) A copy of a school board resolution or other evidence of final official action adopting and implementing the plan, or agreeing to adopt and implement it upon the award of assistance under this part.

(3) Evidence that the plan is a desegregation plan as defined in § 280.4(b).

(4) For an LEA or consortium of LEAs that seeks assistance for existing magnet schools—

(i) Enrollment numbers and percentages, for minority and non-minority group students, for each magnet school for which funding is sought and each feeder school—

(A) For the school year prior to the creation of each magnet school;

(B) For the school year in which the application is submitted; and

(C) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures); and

(ii) Districtwide enrollment numbers and percentages for minority group students in the LEA's or consortium of LEAs' schools, for grade levels involved in the applicant's magnet schools (e.g., K-6, 7-9, 10-12)—

(A) For the school year prior to the creation of each magnet school;

(B) For the school year in which the application is submitted; and

(C) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures).

(5) For an LEA or consortium of LEAs that seeks assistance for new magnet schools—

(i) Enrollment numbers and percentages, for minority and non-minority group students, for each magnet school for which funding is sought and for each feeder school—

(A) For the school year in which the application is submitted; and

(B) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures); and

(ii) Districtwide numbers and percentages of minority group students in the LEA's or consortium of LEAs' schools, for the grade levels involved in the applicant's magnet schools (e.g., K-6, 7-9, 10-12)—

(A) For the school year in which the application is submitted; and

(B) For each of the school years of the proposed grant cycle (i.e., projected enrollment figures).

(g) An applicant that does not have an approved desegregation plan, and demonstrates that it cannot provide some portion of the information requested under paragraphs (f)(4) and (5) of this section, may provide other information (in lieu of that portion of the information not provided in response to paragraphs (f)(4) and (5) of this section) to demonstrate that the creation or operation of its proposed magnet school would reduce, eliminate, or prevent minority group isolation in the applicant's schools and would not result in an increase of minority student isolation at one of the applicant's schools above the districtwide percentage for minority students at the same grade levels as those served in the magnet school.

(h) After reviewing the information provided in response to paragraph (f)(4) or (5) of this section, or as provided under paragraph (g) of this section, the Secretary may request other information, if necessary (e.g., demographic data concerning the attendance areas in which the magnet schools are or will be located), to determine whether to approve an LEA's or consortium of LEAs' plan.

(i) In addition to including the assurances required by this section, an LEA or consortium of LEAs shall describe in its application—

(1) How the applicant will use assistance made available under this part to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

(2) How and to what extent the assistance will increase student achievement in instructional areas offered;

(3) How the LEA or consortium of LEAs will continue the magnet schools project after assistance under this program is no longer available, including, if applicable, why magnet schools cannot be continued without the use of funds under this program.

(4) How assistance will be used to implement services and activities that are consistent with other programs under the Elementary and Secondary Education Act of 1965, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with section 14306 of the Act; and

(5) What criteria will be used in selecting students to attend the proposed magnet schools projects.

(Approved by the Office of Management and Budget under control number 1810-0516)

(Authority: 20 U.S.C. 7206)

[50 FR 21191, May 22, 1985, as amended at 54 FR 19508, May 5, 1989; 57 FR 61509, Dec. 24, 1992; 60 FR 14865, Mar. 20, 1995]

Subpart D—How Does the Secretary Make a Grant?

§ 280.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application submitted under this part on the basis of the criteria in § 280.31 and the priority factors in § 280.32.

(b) The Secretary awards up to 100 points for the extent to which an application meets the criteria described in § 280.31. The maximum possible points for each complete criterion are indicated in parentheses after the heading for that criterion.

(c) The Secretary then awards up to 45 additional points based upon the priority factors in § 280.32.

(Authority: 20 U.S.C. 3021-3032)

[50 FR 21191, May 22, 1985, as amended at 60 FR 14866, Mar. 20, 1995]

§ 280.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Plan of operation.* (25 points) (1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary determines the extent to which the applicant demonstrates—

(i) The effectiveness of its management plan to ensure proper and efficient administration of the project;

(ii) The effectiveness of its plan to attain specific outcomes that—

(A) Will accomplish the purposes of the program;

(B) Are attainable within the project period;

(C) Are measurable and quantifiable; and

(D) For multi-year projects, can be used to determine the project's progress in meeting its intended outcomes;

(iii) The effectiveness of its plan for utilizing its resources and personnel to achieve the objectives of the project, including how well it utilizes key personnel to complete tasks and achieve the objectives of the project;

(iv) How it will ensure equal access and treatment for eligible project participants who have been traditionally underrepresented in courses or activities offered as part of the magnet school, e.g., women and girls in mathematics, science or technology courses, and disabled students; and

(v) The effectiveness of its plan to recruit students from different social, economic, ethnic, and racial backgrounds into the magnet schools.

(b) *Quality of personnel.* (10 points) (1) The Secretary reviews each application to determine the qualifications of the personnel the applicant plans to use on the project.

(2) The Secretary determines the extent to which—

(i) The project director (if one is used) is qualified to manage the project;

(ii) Other key personnel are qualified to manage the project;

(iii) Teachers who will provide instruction in participating magnet

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schools are qualified to implement the special curriculum of the magnet schools; and

(iv) The applicant, as part of its non-discriminatory employment practices will ensure that its personnel are selected for employment without regard to race, religion, color, national origin, sex, age, or disability.

(3) To determine personnel qualifications the Secretary considers experience and training in fields related to the objectives of the project, including the key personnel's knowledge of and experience in curriculum development and desegregation strategies.

(c) *Quality of project design.* (35 points)

(1) The Secretary reviews each application to determine the quality of the project design.

(2) The Secretary determines the extent to which each magnet school for which funding is sought will—

(i) Foster interaction among students of different social, economic, ethnic, and racial backgrounds in classroom activities, extracurricular activities, or other activities in the magnet schools (or, if appropriate, in the schools in which the magnet school programs operate);

(ii) Address the educational needs of the students who will be enrolled in the magnet schools;

(iii) Carry out a high quality educational program that will substantially strengthen students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, music, or vocational skills;

(iv) Encourage greater parental decisionmaking and involvement; and

(v) Improve the racial balance of students in the applicant's schools by reducing, eliminating, or preventing minority group isolation in its schools.

(d) *Budget and resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources and the cost-effectiveness of the budget for the project, including—

(1) The adequacy of the facilities that the applicant plans to use;

(2) The adequacy of the equipment and supplies that the applicant plans to use; and

(3) The adequacy and reasonableness of the budget for the project in relation to the objectives of the project.

(e) *Evaluation plan.* (15 points) The Secretary determines the extent to which the evaluation plan for the project—

(1) Includes methods that are appropriate for the project;

(2) Will determine how successful the project is in meeting its intended outcomes, including its goals for desegregating its students and increasing student achievement; and

(3) Includes methods that are objective and that will produce data that are quantifiable.

(f) *Commitment and capacity.* (10 points) (1) The Secretary reviews each application to determine whether the applicant is likely to continue the magnet school activities after assistance under this part is no longer available.

(2) The Secretary determines the extent to which the applicant—

(i) Is committed to the magnet schools project; and

(ii) Has identified other resources to continue support for the magnet school activities when assistance under this program is no longer available.

(Approved by the Office of Management and Budget under control number 1810-0516)

(Authority: 20 U.S.C. 7201-7213)

[57 FR 61509, Dec. 24, 1992, as amended at 60 FR 14866, Mar. 20, 1995]

§ 280.32 How is priority given to applicants?

(a) *How priority is given.* In addition to the points awarded under § 280.31, the Secretary gives priority to the factors listed in paragraphs (b) through (f) of this section by awarding additional points for these factors. The Secretary indicates in the application notice published in the FEDERAL REGISTER how these additional points will be distributed.

(b) *Need for assistance.* The Secretary evaluates the applicant's need for assistance under this part, by considering—

(1) The costs of fully implementing the magnet schools project as proposed;

(2) The resources available to the applicant to carry out the project if funds under the program were not provided;

(3) The extent to which the costs of the project exceed the applicant's resources; and

(4) The difficulty of effectively carrying out the approved plan and the project for which assistance is sought, including consideration of how the design of the magnet school project—e.g., the type of program proposed, the location of the magnet school within the LEA—impacts on the applicant's ability to successfully carry out the approved plan.

(c) *New or revised magnet schools projects.* The Secretary determines the extent to which the applicant proposes to carry out new magnet schools projects or significantly revise existing magnet schools projects.

(d) *Selection of students.* The Secretary determines the extent to which the applicant proposes to select students to attend magnet schools by methods such as lottery, rather than through academic examination.

(e) *Innovative approaches and systemic reform.* The Secretary determines the extent to which the project for which assistance is sought proposes to implement innovative educational approaches that are consistent with the State's and LEA's systemic reform plan, if any, under the Goals 2000: Educate America Act.

(f) *Collaborative efforts.* The Secretary determines the extent to which the project for which assistance is sought proposes to draw on comprehensive community involvement plans.

(Authority: 20 U.S.C. 7207)

[57 FR 61510, Dec. 24, 1992, as amended at 60 FR 14866, Mar. 20, 1995; 63 FR 8020, Feb. 17, 1998]

§ 280.33 How does the Secretary select applications for new grants with funds appropriated in excess of \$75 million?

(a) In selecting among applicants for funds appropriated for this program in excess of \$75 million, the Secretary first identifies those remaining applicants that did not receive funds under this program in the last fiscal year of the previous funding cycle.

(b) The Secretary then awards ten additional points to each applicant identified under paragraph (a) of this section.

(Authority: 20 U.S.C. 7213(b))

[54 FR 19509, May 5, 1989]

Subpart E—What Conditions Must Be Met by a Grantee?

§ 280.40 What costs are allowable?

An LEA or consortium of LEAs may use funds received under this part for the following activities:

(a) Planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools, though planning activities are subject to the restrictions in § 280.41(a) and (d).

(b) The acquisition of books, materials, and equipment (including computers) and the maintenance and operation thereof. Any books, materials or equipment purchased with grant funds must be:

(1) Necessary for the conduct of programs in magnet schools; and

(2) Directly related to improving the reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

(c) The payment or subsidization of the compensation of elementary and secondary school teachers:

(1) Who are certified or licensed by the State;

(2) Who are necessary to conduct programs in magnet schools; and

(3) Whose employment is directly related to improving the reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

(d) The payment or subsidization of the compensation of instructional staff, where applicable, who satisfy the requirements of paragraphs (c)(2) and (3) of this section.

(e) With respect to a magnet school program offered to less than the entire school population, for instructional activities that—

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(1) Are designed to make available the special curriculum of the magnet school program to students enrolled in the school, but not in the magnet school program; and

(2) Further the purposes of the program.

(Authority: 20 U.S.C. 7208)

[51 FR 20414, June 4, 1986, as amended at 54 FR 19509, May 5, 1989; 60 FR 14866, Mar. 20, 1995]

§ 280.41 What are the limitations on allowable costs?

An LEA or consortium of LEAs that receives assistance under this part may not—

(a) Expend for planning more than 50 percent of the funds received for the first fiscal year, 15 percent of the funds received for the second fiscal year, and 10 percent of the funds received for the third fiscal year;

(b) Use funds for transportation;

(c) Use funds for any activity that does not augment academic improvement; or

(d) Use funds for planning after the third year.

(Authority: 20 U.S.C. 7209, 7210(b))

[60 FR 14866, Mar. 20, 1995]

PART 299—GENERAL PROVISIONS

Subpart A—Purpose and Applicability

Sec.

299.1 What are the purpose and scope of these regulations?

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299.6 What are the responsibilities of a recipient of funds for providing services to children and teachers in private schools?

299.7 What are the factors for determining equitable participation of children and teachers in private schools?

299.8 What are the requirements to ensure that funds do not benefit a private school?

299.9 What are the requirements concerning property, equipment, and supplies for the benefit of private school children and teachers?

Subpart F—Complaint Procedures

299.10 What complaint procedures shall an SEA adopt?

299.11 What items are included in the complaint procedures?

299.12 How does an organization or individual file a complaint?

AUTHORITY: 20 U.S.C. 1221e-3(a)(1), 6511(a), and 7373(b), unless otherwise noted.

SOURCE: 62 FR 28252, May 22, 1997, unless otherwise noted.

Subpart A—Purpose and Applicability

§ 299.1 What are the purpose and scope of these regulations?

(a) This part establishes uniform administrative rules for programs in titles I through XIII of the Elementary and Secondary Education Act of 1965, as amended (ESEA). As indicated in particular sections of this part, certain provisions apply only to a specific group of programs.

(b) If an ESEA program does not have implementing regulations, the Secretary implements the program under the authorizing statute, and, to the extent applicable, title XIV of ESEA, the General Education Provisions Act, the regulations in this part, and the Education Department General Administrative Regulations (34 CFR parts 74 through 86) that are not inconsistent with specific statutory provisions of ESEA.

(Authority: 20 U.S.C. 1221e-3(a)(1))